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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,686	11/14/2003	Gregory J. Sesselmann	073328-0156	4338
26371 7590 04/27/2010 FOLEY & LARDNER LLP 777 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202-5306				
EXAMINER				
HALE, GLORIA M				
ART UNIT		PAPER NUMBER		
3765				
MAIL DATE		DELIVERY MODE		
04/27/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Non-Compliant Amendment (37 CFR 1.121)

Application No.

10/713686

Examiner

Gloria Hale

Applicant(s)

SESSELMANN, GREGORY J.

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 23 December 2009 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
 - ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
 - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
 - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
 - ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: See Continuation Sheet.
- ☒ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):
See Continuation Sheet

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) **only** if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/Gloria Hale/
Primary Examiner, Art Unit 3765

Continuation of 4(e) Other: The amendments to the claims with the addition of claims 99-121 include claims (99-114) that now claim a "method of hunting wildlife" that is restrictable from the last set of claims since the method can be performed by the provision of another garment or no garment at all. Claims 115-121 are also to a new distinct invention wherein the new apparatus claims now claim additional structural layer combinations that were not in the original or most recently rejected/examined claims and would be restricted in the next and final action unless they are removed from the claims.

Continuation of 5 Other: The IDS is not correct in that applicant has not included the copies of the Declarations from the Reexam 90/007331 application. As presently submitted it is not clear if applicant is considering the declarations as general prior art references or if they are relying on them to show "Secondary Considerations of Non-Obviousness". It appears that applicant is doing the latter. However for the Declarations to be considered in the present application as such the Declarations must be re-submitted and notarized by the Declarants in regard to the present Applications serial number and not just photo copied from the Re-exam application's file.

In conclusion, applicant needs to remove the newly added claims 99-121 since they claim a new structural invention different to the apparatus that was claimed in the last set of examined claims in addition to removing the sets of claims in regard to the new method of hunting wildlife. The IDS needs to be corrected or the Declarations with the present application's SN must be included thereon in addition to be notarized by the declarants for the present application and not the Re-Exam application. The Declarations can only be considered for the present case if they are redone for the present case. As an IDS reference they would only be considered as background information and not directly related to the present set of claims. The Declarants must state their declarations in regard to the present claims and not the Re-exam 90/007331 claims.

The present action is being made as a Non-compliant action in order to allow applicant's representative to correct the response without making the action final. Otherwise the claims would have been Restricted and an election made by original presentation without the examination of claims 99-121 and the IDS would not have been considered in addition to making the action final. The new claims 99-121 were discussed with the Examiner's SPE who agreed that the claims are restrictable as stated above. Therefore it is suggested that they be removed from the response and included in a Continuation application. The IDS should be corrected as stated above or applicant should file new Declarations that are directly related to the present application. If they are to be considered prior art and are added to the IDS then applicant should state in their remarks as to why they should be considered as prior art and how they relate to the case since they are not to be considered as declarations for the present case since they do not discuss the claims of the present case and have no direct relevance to the present application's claims. /Gloria Hale/ Primary Patent Examiner - AU 3765